IN THE HIGH COURT OF KERALA AT ERNAKULAM

PRESENT :

THE HONOURABLE MR. JUSTICE K.BALAKRISHNAN NAIR
&
THE HONOURABLE MRS. JUSTICE K.HEMA

WEDNESDAY, THE 21ST NOVEMBER 2007 / 30TH KARTHIKA 1929

WP(C).No. 33506 of 2007(L)

PETITIONER:

JYOTHI LABORATORIES LTD.,
KANDANASSERY, THRISSUR-680 504,
REP. BY ITS SENIOR OFFICER (ACCOUNTS).

BY ADV. SRI.M.P.ASHOK KUMAR

RESPONDENTS:
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1. **THE DIRECTOR GENERAL OF POLICE,**
   POLICE HEAD QUARTERS, TRIVANDRUM.

2. **THE DEPUTY SUPERINTENDENT OF POLICE,**
   KUNNAMKULAM, THRISSUR DISTRICT.

3. **THE SUB INSPECTOR OF POLICE,**
   GURUVAYOOR POLICE STATION, THRISSUR DISTRICT.

4. **JYOTHY LABORATORIES LABOUR UNION (CITU),**
   REP. BY ITS SECRETARY, PANNISSERY,
   KOONAMOOCHY, THRISSUR DISTRICT, PIN – 680 504.

5. **VANIJYA VYAVASAYA MASDOOR SANGHAM**
   (BMS), REP. BY ITS SECRETARY,
   PANNISSERY, KOONAMOOCHY, THRISSUR DISTRICT,
   PIN – 680 504.

BY ADV. SRI.N.NAGARESH for R4 & R5
BY GOVERNMENT PLEADER SRI. P.RAVINDRA BABU

THIS WRIT PETITION (CIVIL) HAVING BEEN FINALLY HEARD ON 21/11/2007, THE COURT ON THE SAME DAY DELIVERED THE FOLLOWING:

KSS

WPC.NO.33506/2007 L

APPENDIX

PETITIONER'S EXHIBITS:

EXT.P1: COPY OF THE COMPLAINT DTD. 05/11/2007.

4TH RESPONDENT'S EXHIBITS:

EXT.R4(A): COPY OF THE LETTER DTD. 14/06/2007 SUBMITTED TO THE DISTRICT OFFICER, THRISSUR ALONG WITH A COPY OF CHARTER OF DEMANDS.

EXT.R4(B): COPY OF NOTICE DTD. 27/07/2007 PUBLISHED BY THE PETITIONER.

EXT.R4(C): COPY OF LETTER DTD. 7/08/2007 SUBMITTED TO THE DLO, THRISSUR BY THE 4TH RESPONDENT.

EXT.R4(D): COPY OF THE NOTICES OF CONCILIATION ISSUED BY THE DISTRICT LABOUR OFFICER, THRISSUR.

EXT.R4(E): COPY OF THE INTERIM ORDER DTD. 23/08/2007 IN WP(C) NO.24896/2007 OF THIS HON'BLE COURT.

/TRUE COPY/

P.S.TO JUDGE

KSS

K.BALAKRISHNAN NAIR &

K.HEMA, JJ.

W.P.(C) NO. 33506 OF 2007-L

Dated 21st November, 2007.

JUDGMENT

Balakrishnan Nair, J.

The petitioner is a company. It has approached this Court, seeking police protection against the agitation held by the workmen represented by respondents 4 and 5 in front of its unit at Kandanassery within the jurisdiction of Guruvayur Police Station.

2. The facts of the case are the following: The petitioner is engaged in the manufacture of fabric whitener called Ujala. It is running another unit in Pannissery, where Nebula and Vanamala washing soaps are manufactured. The latter unit was closed permanently with effect from 1.8.2007. The petitioner was also having a transshipment godown in the factory premises where Nebula and Vanamala washing soaps were being manufactured. The workmen belonging to respondents 4 and 5 started causing obstruction to the said transshipment godown. Though the police was moved, no help was forthcoming. So, W.P.(C) No.24898/07 was filed

seeking police protection. This Court passed an interim order subject to certain conditions. It was ordered that the petitioner will be extended protection to remove the finished products remaining in the closed unit, provided it engages workmen who were on its rolls on the date of closure of the unit. It was also ordered that the petitioner shall co-operate with the conciliation machinery, as a condition for getting police protection. The said writ petition was disposed of, making the said interim order absolute. Notwithstanding that interim order, the police did not render any protection, it is submitted.

3. While so, on 5.11.2007, the respondents 4 and 5 put up a panthal in front of the petitioner's industrial unit at Kandanassery, where Ujala is being manufactured. It is at a distance of 3.5 kms from Pannissery. There is no industrial dispute between the management and the workmen of the Kandanassery unit. But, the persons who came from Pannissery unit started shouting slogans in front of the Kandanassery unit. They are attempting to obstruct the entry and exit of persons and vehicles. Feeling aggrieved by the above actions of respondents 4 and 5, Ext.P1 representation dated 5.11.2007 was filed before the Guruvayur Police Station. But, owing to political influence of the unions and their parties, no action was taken on Ext.P1. Therefore, this writ petition was filed, seeking the following reliefs:

> "1. Issue appropriate writ, order or direction commanding the respondents 1, 2 and 3 to give sufficient and effective police protection to the Jyothi Laboratories Ltd., Kandanassery for its proper functioning and also for the ingress and egress of men and vehicles to the factory premises.
>
> 2. Issue appropriate writ, order or direction commanding the respondents 1, 2 and 3 to give sufficient and effective police protection to the life of management staff, office staff, customers of Jyothi Laboratories Ltd., Kandanassery.
>
> 3. Issue a writ of mandamus or other appropriate writ or order directing the respondents 1 and 2 to take appropriate legal action against the 4th and 5th respondents and their followers for causing obstruction in front of the factory gate at Kandanassery unit.
>
> 4. Direct the respondents 1 and 2 to remove the panthal put up in front of the gate of Jyothi Laboratories Ltd., Kandanassery unit."

4. The respondents 4 and 5 have filed a counter affidavit, denying all the allegations made against them by the petitioner in the writ petition. They point out that the petitioner is not co-operating with the conciliation machinery and the conciliation officers have sent failure reports and the matter is now pending before the Labour Commissioner, Thiruvananthapuram. Recently, the petitioner has shifted the transshipment godown from Pannissery to Kandanassery. Though, at present, it is being run using the existing workmen, the petitioner may have to engage additional work force. The management's intention is to avoid the

engagement of the retrenched workmen of the Pannissery unit, who are represented by respondents 4 and 5. They further submitted that the workmen have not caused any obstruction to the ingress and egress of vehicles. They have not shouted any slogans using filthy language. They are offering a peaceful dharna without obstructing the gate or the industrial activities in the Kandanassery unit. They have no intention whatsoever, to obstruct or to resort to any violence, it is submitted.

5. The petitioner has filed a reply affidavit, dealing with the averments in the counter affidavit. As per the instructions of the police, a copy of which was handed over to us by the learned Government Pleader, the workmen are not causing any obstruction to the ingress and egress of men or vehicles to and from the factory at Kandanassery. It is also submitted that police patrolling has been arranged near the factory to watch the activities of the striking workmen. No cognizable or non-cognizable offence has been reported so far. A peaceful strike is going on. The panthal erected by the workmen is situated at a distance of 8 metres from the factory gate. The learned Government Pleader has also made available the photographs showing the position of the panthal.

6. We heard the leaned counsel on both sides. We notice that either in the writ petition or in Ext.P1, the petitioner does not have a case that any

loyal workmen have been manhandled or any vehicle has been prevented from being taken to the factory or from the factory to any outside destination. Only allegations of attempted breach of peace are made. The allegations are made to the effect that attempts were made to create law and order problem. The workmen have got a fundamental right to hold peaceful demonstrations and public meetings, to persuade the management to accept their views. As long as they do not commit any cognizable offence, the police cannot interfere with the same. Erection of a panthal by the side of a public road or shouting slogans from there cannot be described as illegal activities. We also notice that the petitioner has not raised any specific allegation regarding the commission of any cognizable offence or that the police have not taken any action on information being lodged about the same. So, we feel that the writ petition is premature. But, we notice the submissions made on behalf of the police that they are patrolling the area and the activities of the striking workmen are being watched.

In view of the above position, we think no order for police protection is warranted in this case. Needless to say, if any commission of any cognizable offence is reported, the police will take appropriate action in

accordance with law. Subject to the above direction, the writ petition is dismissed.

K.BALAKRISHNAN NAIR, JUDGE.

K.HEMA, JUDGE.

Nm/